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MEMORANDUM FOR: Distribution List

FROM:

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Assistant Legislative Counsel

SUBJECT: Intelligence Charter Update

1. The Intelligence Charter legislation process entered a new phase this past month with the reinitiation of Administration contacts and the reopening of negotiations with staffers on the Senate Select Committee on Intelligence (SSCI). This memorandum is addressed to your attention in an effort to bring Agency components up-to-date on the Charter process. OLC will continue to monitor the progress of the legislation and will keep components fully and currently informed.

2. The "Intelligence Charter" legislation--introduced in early February--was, during the 95th Congress, the subject of extensive public hearings in the Senate and close Administration scrutiny in preparation for its reintroduction in the 96th Congress. The SSCI received extensive testimony from former Executive Branch officials, academicians, and civil libertarians. The testimony received represents viewpoints reflecting a wide variety of political beliefs--including former intelligence officers, the ACLU and so-called "Victims of Intelligence." This procedure reflects the position of the sponsors of the legislation, who stressed on introduction and during the hearings that the bill is intended to serve as an "agenda for discussion" which will be revised for reintroduction early in the 96th Congress. The Senate Committee did not call on any current Administration witnesses. The House oversight Committee, unlike the Senate, held no hearings on the bill, which was introduced in the House as a formality (H.R. 11245). Attendance of both Senators and the general public was spotty. Individual Senate Committee members who attended the hearings did admit to the overly detailed approach reflected in the bill as introduced and opined that the bill probably contains too many reporting requirements.

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3. In anticipation of the reintroduction of the Charter legislation early in the 96th Congress, the Administration convened an NSC/SCC Intelligence Charter Working Group, which for the past several months has met to deliberate and grapple with the various titles in an effort to develop Administration positions. A Working Group Title I redraft and issues paper has been submitted to the President; Title II will be submitted to the President through the SCC before the end of the month.

4. On 13 and 14 November, two meetings were held with SSCI staff representatives to discuss the SCC Charter Working Group's redrafted versions of Titles I and II of S. 2525, which were previously sent to the Committee staffers. In attendance were the General Counsel and representatives of OGC and OLC who met with SSCI Staff Director Bill Miller and other SSCI staffers. These meetings marked the reopening of substantive charter discussions between the intelligence agencies and the SSCI, the first such discussions to take place since the formation of the Working Group. Although individual Intelligence Community entities--CIA, FBI, NSA--have had continued contact with the SSCI staffers negotiating changes to their respective entity Titles, the 13-14 November meetings represent the first time since the introduction of the legislation that "Administration" positions have been aired.

5. Discussions with regard to Title I covered the full range of issues contained therein to include the question of GAO audits (section 123), oversight and accountability (subsection 152(a)), and the DNI's budget authorities. Many of the differences discussed appear to be capable of being worked out. With regard to Title II the Committee staffers informed us that they have identified "60 major omissions," some "fundamental," in the redraft. As a result of the discussions surrounding Title II, a meeting was scheduled for 15 November with David Aaron, NSC, to decide what the next step should be with regard to the Administration's Title II given the impasse that became apparent. At the meeting with Mr. Aaron, it was decided to cancel the SCC meeting scheduled for 20 November at which time the Working Group's Title II issues paper was to be considered. The previously scheduled 27 November meeting of the SCC, however, will be held. The postponement will allow SSCI staffers to produce their own issues paper which will stress those areas in the Title II Working


Group redraft which are of prime concern to the Committee staff. The SSCI paper will be included as an addendum to the Working Group's Title II issues paper going to the SCC. The Charter Working Group has scheduled a meeting for Wednesday, 22 November, to finalize plans for the upcoming SCC meeting and to discuss the SSCI submission.

6. The SSCI staff is committed to an early reintroduction of the bill and is looking to completing legislative action on the charters during the 96th Congress. In earlier meetings on the subject of Charter legislation, the SSCI Staff Director has made his opinion quite clear that a consensus could and must be reached with the Administration so that a "clean bill" representing that consensus could be introduced as early as the commencement of the 96th Congress. However, during the 13-14 November meetings discussed herein, Bill Miller appeared more reserved and more realistic with regard to the timetable. It was as if Mr. Miller has come to recognize the fact that there are a lot of problems to be addressed and that time is needed to work them out. He made no mention of the reintroduction of a clean bill and did not press the issue of a timetable. It is to be noted that Charter legislation upon reintroduction will have to vie for early congressional attention along with the anticipated SALT Treaty, which is sure to take up a great part of the first half of the new Congress.




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